



Town of New Windsor

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Attorney for the Town

July 18, 2000

Brian G. Gilmartin, Esq.
90 East Main Street
Washingtonville, N. Y. 10992

Re: Brittany Terrace Mobile Home Park (FKA P. J. Trailer Ranch) – 52-1-18

Dear Brian:

I have reviewed the November 14, 1968 ZBA decision granting a conditional use permit following a Public Hearing held on October 7, 1968.

I have also reviewed Planning Board minutes from September 13, 1967, January 24, 1968, April 9, 1969, May 28, 1969, February 23, 1972, as well as transcribed minutes from a current Planning Board meeting held on May 10, 2000.

The November 14, 1968 ZBA decision is most interesting. It followed a contested public hearing which followed a Supreme Court decision on the matter. The applicant was represented by an attorney and an engineer. The objectors were also represented by counsel, as was the ZBA. The lengthy decision was obviously drafted by the ZBA attorney.

The ZBA decision in 1968 grants the project, now commonly referred to as Brittany Terrace, a conditional use permit to install 275 mobile homes on 5,000 square foot parcels, subject to sewer and water requirements. The roads are required to be 20-30 ft. wide, so the present Planning Board may require the full 30 feet if it wants.

The 1968 ZBA decision makes several references to a "plan" and a "layout" which were reviewed at the ZBA hearing. The same map was undoubtedly used at the Planning Board hearing. The fact that a plan or map does not exist more than 30 years later and is not available for the Planning Board meeting on May 10, 2000 does not operate to void the 1968 municipal action.

Incidentally I have inquired into the possible whereabouts of the 1968 Town copy of the plan. It was likely stored in the office of the then Engineer for the Town, Kartiganer, who reportedly got rid of old records when he retired and went out of business. The applicant, Kean, cannot find his copy either which is similarly unfortunate but not fatal in light of the ZBA decision.

I am of the opinion that the project received a vested right to a conditional use approval for 275 units in 1968. The site has been in continuous operation as a mobile home park since then and the 1968 Public Hearing talked in terms of a 10-20 year buildout.

That does not mean the project can be allowed to go forward without a map. Therefore the applicant must re-create a map professionally prepared showing the conditional use permit data, necessary Department of Health approvals regarding sewer, locations, sizes, widths, notes, and other requirements that were stated

in the 1968 ZBA and Planning Board decisions. Then the Planning Board may review and approve the re-created map "nunc pro tunc".

The matter of permit fees, hookup fees, recreation fees, and other fees is different. If the applicant did not "lock in" his payment of fees back in 1968, and I see no evidence that he did, then the presently existing fees should obtain.

Very truly yours,



Philip A. Crotty
Attorney for the Town of New Windsor
pac/pac

cc: George J. Meyers, Supervisor
James Petro, Chairman - Planning Board
James Nugent, Chairman - ZBA
Andrew S. Krieger, Esq.
Mark J. Edsall, P. E.
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